

Date

Chad Mayo
6932 Micahs Way
Greenwell Springs, LA 70739

Re: Ethics Board Docket No. 2015-1246

Dear Mr. Mayo:

The Louisiana Board of Ethics, at its February 19, 2016 meeting, considered your request for an advisory opinion regarding whether you, as an employee of the Louisiana Real Estate Commission (Commission), can hold an active real estate license. You stated that as a Compliance Investigator 3 with the Commission's Investigative Division, you perform investigations designed to protect the general public from fraudulent, illegal and incompetent real estate practices. You also stated that you currently hold an inactive license, which you renew each year with the Commission by submitting the required form and fee.

You explained that real estate licenses, whether active or inactive, expire on December 31st of each year. You further explained that an inactive license can be transferred to active status at any time by submitting the form, verifying errors and omissions insurance coverage, completing continuing education hours, and paying the fees. Similarly, renewal of an active license involves submitting the form, either electronically or paper, verifying errors and omissions insurance coverage, completing continuing education hours, and paying the fees. Once the requisite information and payments are received by the Licensing Division, the real estate license is transferred to active status or renewed.

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would not prohibit you from holding an active real estate license while you are employed with the Commission. La. R.S. 42:1113 prohibits a public servant from bidding on or entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of his agency. In *Hill v. Commission on Ethics for Public Employees*, 453 So.2d 558, (La. 1984), the Louisiana Supreme Court concluded that a member of the Cosmetology Board could renew a license for a beauty shop and a license to practice cosmetology since those renewals were "routine and mechanical". "Routine and mechanical" was defined as something issued in accordance with the rules and procedures of the agency and not with the approval of the Cosmetology Board. Based on the procedures of the Commission, as long as the form is submitted, the mandated errors and omissions insurance is carried, the required continuing education hours are completed, and the fees are paid, then the real estate license is transferred to active status or renewed. Thus, it appears that the transfer to active status and subsequent renewals of your real estate license would be "routine and mechanical". Therefore, it would not present a violation of La. R.S. 42:1113A if you hold an active real estate license while you are employed with the Commission.

The Board further instructed me to inform you that La. R.S. 42:1112A would prohibit you, as an employee of the Commission, from participating in a transaction involving Commission in which you have a personal substantial economic interest. La. R.S. 42:1102(21) provides that “substantial economic interest” means an economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons, except: (a) the interest that the public servant has in his position, office, rank, salary, per diem, or other matter arising solely from his public employment or office; (b) the interest that an elected official who is elected to a house, body, or authority has in a position or office of such house, body, or authority which is required to be filled by a member of such house, body, or authority by law, legislative rule, or home rule charter; or, (c) the interest that a person has as a member of the general public. As such, if a specific situation arises in the future, it is the recommendation of the Board that you request an advisory opinion at that time.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Vivian Haley Williams
For the Board